

REMARKS

This Application has been carefully reviewed in light of the Official Action mailed July 27, 2005. In order to advance prosecution of this Application, Claims 1-14, 17-20, 24, 25, 27, 28, and 30-32 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1, 2, 23, 24, and 30-32 have been objected to for minor informalities. Claims 1, 2, 18, 24, and 30-32 have been amended to address the informalities identified by the Examiner. Other minor amendments have also been made to many of the claims in order to provide consistency and proper antecedent basis without being as a result of any prior art.

The specification stands objected to under 37 C.F.R. §1.73 for not containing a summary of the invention. the specification has been amended to include a summary of the invention.

Claim 2 stands rejected under 35 U.S.C. §112, first paragraph, as containing subject matter not described in the specification. Support for the language of Claim 2 can be found at page 6, lines 25-27, and page 12, lines 10-20, of Applicant's specification. Therefore, Applicant respectfully submits that Claim 2 is in accordance with 35 U.S.C. §112, first paragraph.

Claims 1-3, 10, 15, 16, and 18-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bianchini, Jr., et al. in view of Proctor, et al. Applicant respectfully traverses this rejection.

Independent Claim 1 recites ". . . after assigning a first data flow  $f_1$ , routing to said first switching pathway data packets of at least said first data flow  $f_1$ ; upon the determination of a first condition, assigning at least some of

the data packets of said first data flow  $f_1$  to a second switching pathway . . .” By contrast, the Bianchini, Jr., et al. patent does not reassign data packets from a first switching pathway to a second switching pathway. If a switch fabric of the Bianchini, Jr., et al. patent fails, the data flow thereto is merely reconstructed from a parity strip of data and the data flow to the failed switch fabric is not reassigned to another switching fabric. The Proctor, et al. patent is merely cited for its data buffers and does not include any additional disclosure combinable with the Bianchini, Jr., et al. patent that would be material to patentability of these claims. Thus, the proposed Bianchini, Jr., et al. - Proctor, et al. combination does not assign at least some of the data packets of said first data flow  $f_1$  to a second switching pathway upon the determination of a first condition as required by the claimed invention. Moreover, the Examiner has not shown that the conditions specified in Claim 3 are shown by the cited patents. Therefore, Applicant respectfully submits that Claims 1, 3, 10, and 15 are patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 2 recites “. . . routing to said first switching pathway data packets of at least said first data flow  $f_1$  and said second data flow  $f_2$ ; upon the determination of a first condition, assigning at least some of the subsequent data packets of said second data flow  $f_2$  of said stream  $S$  to a second switching pathway . . .” By contrast, as shown above, the Bianchini, Jr., et al. patent does not reassign data packets to a second switching pathway for a data flow assigned to a first switching pathway upon the determination of a first condition. Moreover, the Bianchini,

Jr., et al. patent fails to disclose routing two data flows to a first switching pathway. Therefore, Applicant respectfully submits that Independent Claim 2 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 16 recites ". . . routing data packets identified by said data flow index, into a first data buffer, said first data buffer having an output coupling data into a first switch matrix; upon the determination of a predetermined condition, routing data packets identified by said data flow index into a second data buffer, said second data buffer having an output coupling data into a second switch matrix . . . ." By contrast, as stated above, the Bianchini, Jr., et al. patent fails to disclose re-routing data packets to a second switch matrix associated with a data flow index previously routed to a first switch matrix. The Bianchini, Jr., et al. patent does not perform any rerouting of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 16 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 18 recites ". . . a controller, operatively coupled to said data demultiplexor so as to route data packets of said stream S to various ones of said K data buffers until the occurrence of a predetermined event, the controller operable to re-assign at least some of the data packets of said stream S to different ones of said K buffers upon the occurrence of the predetermined event." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon

determination of a predetermined condition. Moreover, the Examiner has not shown that the conditions specified in Claim 20 are shown by the cited patents. Therefore, Applicant respectfully submits that Claims 18-24 are patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 25 recites ". . . wherein data packets of a first flow  $f_1$  of said stream  $S$  are routed by said data flow demultiplexor to a first switch matrix, and upon the detection of a predetermined event by said controller, at least a portion of said first flow  $f_1$  is re-routed to a second switch matrix." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 25 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 26 recites ". . . a data flow demultiplexor, having an input coupled to the input port so as to receive said stream  $S$ , and further having  $K$  outputs and a control input, said data flow demultiplexor routing data packets of said data flows  $f_1$ - $f_n$  to different ones of said  $K$  data outputs, and in response to the occurrence of at least one predetermined event in said data switch, re-routing data packets of at least one of said data flows  $f_1$ - $f_n$  from a first data output to a second data output . . ." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Moreover, the

Examiner has not shown that the conditions specified in Claim 27 are shown by the cited patents. Therefore, Applicant respectfully submits that Claims 26 and 27 are patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 28 recites ". . . routing at least a first portion of a first data flow  $f_1$  in said stream  $S$  to a first switching pathway; upon the determination of a predetermined condition of said first switching pathway, routing at least second portion of said first data flow  $f_1$  to a second switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 28 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 29 recites ". . . routing at least a first portion of a first data flow  $f_1$  in said stream  $S$  to a first switching pathway; upon the determination of a predetermined condition in a second switching pathway, routing at least second portion of said first data flow  $f_1$  to said second switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 29 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 30 recites ". . . routing at least a first portion of a first data flow  $f_1$  in said stream  $S$  to a first switching pathway; upon the determination of a predetermined condition in a second switching pathway, routing at least second portion of said first data flow  $f_1$  to a third switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Therefore, Applicant respectfully submits that Independent Claim 30 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 31 recites ". . . upon the determination of a predetermined condition in said switching system . . . then, routing at least second portion of said first data flow  $f_1$  to a second switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Moreover, the Examiner has not shown that the conditions specified in Claim 31 are shown by the cited patents. Therefore, Applicant respectfully submits that Independent Claim 31 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Independent Claim 32 recites ". . . routing a plurality of flows  $f_1-f_n$  , in said stream  $S$  to a first switching pathway comprised of a first data buffer having an output coupled to a corresponding first switching fabric; upon the determination of the existence of a first condition, routing at least some of the data packets of a first data flow  $f_i$  to a second

switching pathway." By contrast, as stated above, the Bianchini, Jr., et al. patent does not perform any re-routing of data flows from one of its switch fabrics to another one of its switch fabrics upon determination of a predetermined condition. Moreover, the Examiner has not shown that the cited patents disclose routing a plurality of data flows to a first switching pathway. Therefore, Applicant respectfully submits that Independent Claim 32 is patentably distinct from the proposed Bianchini, Jr., et al. - Proctor, et al. combination.

Applicant notes with appreciation the allowability of Claims 4-9, 11-14, and 17 if placed into appropriate independent form. Applicant respectfully defers placing Claims 4-9, 11-14, and 17 into appropriate independent form pending a final disposition of Independent Claims 1 and 16.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants



Charles S. Fish

Reg. No. 35,870

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CORRESPONDENCE ADDRESS:

2001 Ross Avenue, Suite 600

Dallas, TX 75201-2980

(214) 953-6507

Customer Number: 05073